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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,859	07/16/2003	Andrew R. Weisenberger	062374	.1761
38834	7590	10/23/2006		
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			EXAMINER JIANG, CHEN WEN	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,859

Applicant(s)

WEISENBERGER ET AL.

Examiner

Chen-Wen Jiang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-13, 22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13, 22 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17:2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments regarding to the publication date, see pages 1-5, filed 8/7/2006, with respect to the rejection(s) of claim(s) 1-5, 7-13, 22 and 24-29 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of previous found prior art and newly found prior art.

Request under 37 C.F.R. 1.105

2. Applicant and the assignee of this application are requested under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application. In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), the examiner or other Office employee may request the submission, from individuals identified under § 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, for example:

In Use: An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is requested as follows: The document "Program of Preventing Drying", provided by the Applicants, appears to be sales presentations to the customers. Examiner needs to know whether this method has been presented to the customers and how long this method has been presented to the customers at that time.

Information used in invention process: A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used in the invention process, such as by designing around or providing a solution to accomplish an invention result. For example, the examiner found that there are certain company brochures, which update regularly. If any of these brochure and it's various documents are known to the applicant, then this information should be disclosed.

3. The affidavit filed on 1/24/2006 under 37 CFR 1.131 has been reviewed but is withhold for further review due to the request under 37 C.F.R. 1.105.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5,7,9,11-13,22 and 24-29 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Harriman et al. (ASHRAE IAQ seminar 2001).

Harriman et al. disclose using desiccant or mechanical dehumidifiers to dry out materials that have absorbed excessive moisture during construction. This practice allows building projects to stay on schedule while limiting the potential for mold problems. Fig.5 shows a typical temporary enclosure and doorway erected by a drying contractor to retain the dry air in the part of building that needs it. To dry out moist material, the drying air must be contained. Keeping

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doors closed is never popular with workers, but the irritation can be minimized through simple springs on lightweight swinging doors. Hermetic air seals are not necessary in building drying, but humid outdoor winds must be kept out of the area being dried. Fig.5 shows vapor barriers are installed in some areas. Also, using dry air during interior wall installation reduces the risk of hidden mold after the project is complete. The building materials can be kept dry during construction, the risk of mold growth is significantly reduced. Dehumidifiers make it a trivial matter to meet the MFMA specification. Fig.7 presents the drying times for drywall seams. Under the principals of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *Ir re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

6. Claims 1-5,7-13,22 and 24-29 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Construction Drying (Munters 2000).

Munters discloses a drying services to speed construction activities, protect materials and eliminate moisture problems and control humidity at building projects. The techniques include using desiccant dehumidification, refrigeration and heating equipment. Munters dehumidifiers continuously replace humid air inside the building with air, which has been dehumidified. This extremely dry air has a low “vapor pressure”. The picture of “Union Station, Seattle,

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Washington” has vapor barrier on the working floor and the picture of “San Francisco, California” has plastic sheeting to cover the windows to form a closed building.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harriman et al. (ASHRAE IAQ seminar 2001) in view of Munters (Munters 2000/2001).

Harriman et al. discloses the invention substantially as claimed. However, Harriman et al. does not disclose heating with dehumidification. Munters discloses dehumidification and heating in the same field of endeavor for the purpose of enhance moisture removal. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Harriman et al. with a heating in view of Munters so as to improve dehumidification.

9. Claims 1-5, 7-13, 22 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munters (Munters 20020221) in view of Teagle (U.S. Patent Number 6,402,613) or Eller et al. (U.S. Patent Number 5,004,483).

Munters disclose to remove moisture on construction projects using desiccant technology. The dehumidifier produces dry air, which is piped into a closed building. However, Hunters does not disclose the closed construction building is using vapor barrier to seal. Teagle/Eller et al. disclose the space can be enclosed with vapor barrier in the same field of

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endeavor for closing the space. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the method of using vapor barrier in view of Teagle/Eller et al. so as to produce a closed space to remove undesired elements.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809.

The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chen-Wen Jiang
Primary Examiner

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned to the right of the name and title.